

JANUARY 8, 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

08 C 167

AZIZ MALY

Plaintiff / Petitioner

CASE NO.:

v.

HON.: **JUDGE MANNING**
MAGISTRATE JUDGE SCHENKIER

MICHAEL MUKASEY, in his official capacity as Attorney General of the United States; MICHAEL CHERTOFF, in his official capacity as Secretary of the Department of Homeland Security; RUTH DOROCHOFF, in her official capacity as District Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security; ROBERT S. MUELLER, III, in his official capacity as Director of the Federal Bureau of Investigation,

Defendants / Respondents

Complaint for Naturalization and Other Relief

The Plaintiff is a lawful permanent resident of the United States who applied to be naturalized as a United States citizen. His citizenship application has been pending since November 27, 2006 and he has satisfied all requirements for citizenship. He seeks immediate naturalization and other relief.

Jurisdiction and Venue

1. This court has subject matter jurisdiction pursuant to at least the following statutory provisions: 28 U.S.C. § 1331 (because questions of federal law are presented); and 8 U.S.C. § 1447(b) (granting district court jurisdiction to review naturalization applications); and 28 U.S.C. § 1361 (mandamus jurisdiction).
2. Pursuant to 29 U.S.C. § 1391, venue is proper in this district on either of the following grounds: (1) the Plaintiff resides in this judicial district, the Defendants are officers of the United States or agencies of the United States, and no real property is involved (28 U.S.C. § 1391(e)(3)); or (2) acts or omissions giving rise to the action these applications for naturalization were processed in part by the Chicago office of Immigration and Naturalization Services (now the Bureau of Citizenship and Immigration Services) (28 U.S.C. § 1391(e)(2)).
3. An actual controversy has arisen and now exists between the Plaintiff and Defendants.

The Parties

Plaintiff:

4. Plaintiff AZIZ MOHD ALI MALY is a lawful permanent resident of the United States, who resides in Orland Park, Illinois, which is within this judicial district.

Defendants:

5. Defendant MICHAEL MUKASEY is being sued in his official capacity as the Attorney General of the United States. He is the sole person authorized by Congress to naturalize persons as citizens of the United States. 8 U.S.C. § 142(a).

6. Defendant MICHAEL CHERTOFF is being sued in his official capacity as the Secretary of the Department of Homeland Security (DHS). As of February 15, 2005, Mr. Chertoff has been responsible for the administration of the United States Citizenship and Immigration Service, which provides certain immigration related services including naturalization. 8 U.S.C. § 1103.

7. Defendant RUTH DOROCHOFF is being sued in her official capacity as the District Director of USCIS for the Chicago District. As such, she is charged with the duty of administration and enforcement of all the functions, powers, and duties of USCIS in the Chicago District.

8. Defendant ROBERT S. MUELLER, III, is the Director of the Federal Bureau of Investigation. As such he is charged with conducting background checks of applicants for naturalization when requested to do so by the USCIS.

Facts Common to All Counts

9. Mr. Maly was born in Jordan. He is a person of good moral character.

10. Mr. Maly has been a lawful permanent resident of the United States since November 1, 2001. He is identified by USCIS Account Number (Alien number) A 078 291 003. A copy of Mr. Maly's green card is attached as Exhibit 1.

11. Mr. Maly has been employed by Argonne National Lab since April, 2001 and is a tax payer in good standing.

12. On August 5, 2004, Mr. Maly first applied to be a naturalized citizen.

13. On December 7, 2004, Mr. Maly was informed that he “passed the tests of English and U.S. history and government.” A copy of the notice indicating that Mr. Maly passed these tests is attached as Exhibit 2.

14. After a nearly two year delay, Mr. Maly was informed he had passed the FBI background check and was scheduled for a citizenship update interview. However, on November 21, 2006 Mr. Maly’s citizenship application was rejected because while his application for naturalization was pending Mr. Maly had divorced his spouse whom he had applied for citizenship status through.

15. On November 27, 2006, Mr. Maly re-applied for citizenship as a lawful permanent resident.

16. Mr. Maly’s background check was still valid in accordance with USCIS policy that provides that background checks, once completed, are valid for a period of fifteen months.

14. On August 21, 2007 Mr. Maly was informed he had once again “passed the tests of English and U.S. history and government” and that his application had been recommended for approval. A copy of the notice indicating that Mr. Maly passed these tests is attached as Exhibit 3.

15. USCIS informed Mr. Maly that he should receive a decision by December 11, 2007. A copy of the letter indicating when Mr. Maly would receive a decision is attached as Exhibit 4.

16. At no time has Mr. Maly been informed of any deficiencies with his application for naturalization. Repeated requests of USCIS for information on the status of Mr. Maly's application have not provided any information as to the nature of the delay.

17. At least as of August 21, 2007, Mr. Maly satisfied all of the requirements for naturalization set forth in 8 U.S.C. § 1427.

18. Since Mr. Maly's citizenship exam on August 21, 2007, more than 120 days have passed.

19. The unreasonable delay in naturalizing Mr. Maly has caused him damage, including at least his disenfranchisement and other deprivation of other rights that flow from citizenship.

Count I: Naturalization Order Pursuant to 8 U.S.C. § 1447(b)

20. Mr. Maly reasserts and re-alleges paragraphs 1 to 18 as if set forth fully here.

21. Pursuant to 8 U.S.C. § 1447(b), Mr. Maly seeks a determination by this Court that he meets the requirements for naturalization and is to be naturalized as a U.S. citizen without further delay.

Prayer for Relief

Wherefore, Plaintiff Aziz Maly seeks the following relief:

- A. An order setting an immediate date for naturalization of Mr. Maly;
- B. The actual naturalization of Mr. Maly by this Court;
- C. An award of damages in an amount to be determined;
- D. An award of costs, as provided by 28 U.S.C. § 2412(a)(1);

- E. An award of reasonable attorneys fees, as provided by 28 U.S.C.S. § 2412(d)(1);
and
- F. Such other relief as the Court deems just.

Filed: December 31, 2007

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